

58TH MEETING
OF THE
MARYLAND HEALTH CARE COMMISSION

Thursday, July 15, 2004
Minutes

Chairman Wilson called the meeting to order at 12:40 p.m.

Commissioners present: Chase, Crofoot, Ginsburg, Lucht, Malouf, Nicolay, Risher, Row, Salamon, and Toulson

ITEM 1.

Approval of Minutes

Commissioner Ernest Crofoot made a motion to approve the Minutes of the June meeting of the Commission, which was seconded by Commissioner Larry Ginsburg, and unanimously approved.

ITEM 2.

Update on Commission Activities

- Data Systems and Analysis
- Health Resources
- Performance and Benefits

Copies of the *Update* were available on the documents table and on the Commission's website at: <http://www.mhcc.state.md.us/mhccinfo/cmsnmtgs/updates/>.

ITEM 3.

FINAL ACTION: COMAR 31.11.06 - Comprehensive Standard Health Benefit Plan (Changes to CSHBP to Allow a Health Savings Account-Compatible High Deductible Health Plan)

Chairman Wilson announced that Joel Tornari, Assistant Attorney General, would present COMAR 31.11.06 for promulgation. Mr. Tornari said that due to certain requirements pertaining to Health Savings Accounts (HSAs) included in the recently enacted federal Medicare Modernization Act (MMA), changes to the CSHBP are needed so the Plan will meet the definition of a high-deductible health plan under that Act. The Commission previously approved the revisions to the regulations on an emergency basis. One public comment was received which required no changes to the regulations. He requested final approval by the Commission. Vice Chairman George Malouf made a motion that the Commission approve the regulations, which was seconded by Commissioner Robert Nicolay, and unanimously approved.

FINAL ACTION: COMAR 31.11.06 – Comprehensive Standard Health Benefit Plan is hereby APPROVED.

ITEM 4.

FINAL ACTION: COMAR 10.24.03 – Maryland Long Term Care Survey

Mr. Tornari said that the purposes of the changes to these regulations are to amend section .01, Definitions, and section .02, Collection and Submission of Data, of COMAR 10.24.03 to bring the regulations into compliance with the current processes used in conducting and administering the Long Term Care Survey. No public comments were received regarding these changes. Commissioner Stephen J. Salamon made a motion that the Commission approve the regulations, which was seconded by Commissioner Crofoot, and unanimously approved

FINAL ACTION: COMAR 10.24.03 – Maryland Long Term Care Survey is hereby APPROVED.

ITEM 5.

INSTITUTIONAL REVIEW BOARD: Appointment of Carol Richardson

Chairman Wilson announced that Ben Steffen would present the nomination of Carol Richardson to the MHCC Institutional Review Board. Ms. Richardson was nominated to replace Lucinda Brittingham of Johns Hopkins Health System. Ms. Richardson has served as the Privacy Officer for the Johns Hopkins Health System since February 2001. In response to Commissioner Clifton Toulson, Jr.'s question regarding eligibility criteria for the board, Mr. Steffen replied that the criteria are set forth in the Commission's regulations. Commissioner Crofoot made a motion that the Commission approve the nomination, which was seconded by Commissioner Nicolay, and unanimously approved.

INSTITUTIONAL REVIEW BOARD: The appointment of Carol Richardson is hereby APPROVED.

ITEM 6.

CERTIFICATE OF NEED:

- **Exceptions Hearing** – Reviewer's Recommended Decision on the Petition of Shady Grove Adventist Hospital and Washington Adventist Hospital for Acceptance of Letter of Intent for Partial Relocation of an Existing Cardiac Surgery and Percutaneous Coronary Intervention Program

Chairman Wilson said that following the Commission's adoption, last March, of a new State Health Plan Chapter for Open Heart Surgery services, the Commission established a schedule for a comparative review of Certificate of Need applications for an open heart surgery program in the Metropolitan Washington area. Suburban Hospital, Holy Cross Hospital and Southern Maryland Hospital Center have filed applications for a new open heart surgery program in that review.

Adventist HealthCare submitted a Letter of Intent to establish a program at Shady Grove Adventist Hospital by "partially relocating" the open heart surgery program currently operating at Washington Adventist Hospital. Adventist HealthCare's position was that this Letter of Intent should trigger a review of its proposal that would proceed separately from the review of proposed new programs scheduled by the Commission. The Commission Staff informed Adventist HealthCare that the Commission would not accept Adventist HealthCare's Letter of Intent, explaining that Adventist HealthCare's proposal could not be reviewed separately from the scheduled review for cardiac surgery.

Adventist HealthCare then filed a Petition for Acceptance of its Letter of Intent. Commission Vice Chairman George S. Malouf was assigned to consider the Petition and issue a Proposed Decision. Vice Chairman Malouf issued a Proposed Decision recommending that the Commission affirm the Staff's rejection of Adventist HealthCare's Letter of Intent and uphold Staff's determination that the appropriate proceeding for review of Adventist HealthCare's relocation proposal is the scheduled comparative review now underway. Adventist HealthCare filed written objections to the Proposed Decision. Suburban Hospital filed a response urging approval of the Proposed Decision.

The Commission heard oral argument from Howard Sollins, on behalf of Adventist HealthCare, and Paul S. Caiola, on behalf of Suburban Hospital. After oral argument, Vice Chairman Malouf recommended that Adventist HealthCare's Petition to partially relocate the existing Cardiac Surgery and Percutaneous Coronary Intervention Program to Shady Grove Adventist Hospital be denied and made a motion that the Commission adopt his Proposed Decision, which was seconded by Commissioner Crofoot. Following discussion among the Commissioners, the Proposed Decision was adopted unanimously.

- **ACTION:** Gladys Spellman Specialty Hospital and Nursing Center – Addition of 15 Chronic Care Hospital Beds, Docket No. 03-16-2127

Pamela W. Barclay, Deputy Director of Health Resources, informed the Commission that the Hospital has applied for a Certificate of Need to add fifteen beds to its existing chronic hospital care unit. The proposed project will increase the capacity of the chronic hospital care unit from 37 to 52 beds. Because the additional beds will be located in space currently occupied by nursing home patients, 18 existing comprehensive care facility (CCF) beds would be closed to accommodate the expanded chronic hospital care unit. Following approval of the project, the number of CCF beds would decrease from 73 to 55. The total estimated capital cost of the project is \$32,864, including \$12,000 for minor renovations for electrical system upgrades in six patient rooms. The conversion of the CCF beds will occur over an estimated six-month period through the transfer of patients to other nursing homes or through reduced new admissions of comprehensive care patients. Staff recommended that the Commission approve this project. Commissioner Nicolay made a motion that the Commission approve the Certificate of Need, which was seconded by Commissioner Walter Chase. Following discussion among the Commissioners, the Certificate of Need was unanimously approved. (Please note that Vice Chairman Malouf was able to, and did, participate in the consideration of this matter because he is no longer a member of the Dimensions Health Care Board of Directors.)

ACTION: Gladys Spellman Specialty Hospital and Nursing Center – Addition of 15 Chronic Care Hospital Beds, Docket No. 03-16-2127, is hereby APPROVED.

Vice Chairman Malouf presided over this matter, as Chairman Wilson had to leave the meeting.

- **ACTION:** Carroll County Hospital Center Modification, Docket No. 01-06-2079

Deborah Rajca, Health Policy Analyst, stated that the Hospital submitted a second request to modify its January 2002 CON. On January 17, 2002, the Commission granted a CON to Carroll County General Hospital, now known as Carroll Hospital Center, for a \$39 million capital construction and renovation project, including the construction of a new five-floor tower on the Hospital's campus, with the fourth and fifth floors to contain administrative offices. On January 21, 2003, the Hospital submitted a request to modify its January 2002 CON. On April 22, 2003, the Commission approved the modified request to permit the completion of the fourth floor of the south tower for clinical (rather than administrative) use at an additional capital cost of approximately \$540,000. On May 13, 2004, the Hospital submitted this second modification request of its January 2002 CON in order to make changes in the construction of the facility, to

obtain a six-month extension of two performance requirements, and to add an additional phase to the project. Ms. Rajca introduced Kevin Kelbly and Laura Resh of the Hospital and their counsel, Marta Harting, to the Commissioners. Staff recommended that the Commission approve the modification requested as follows:

1. Carroll Hospital Center may make the following changes in its physical plant design:
 - (1) The Hospital may relocate administrative offices to the area on the first floor where the old Emergency Department was located;
 - (2) The Hospital may combine the outpatient physical, occupational, and speech therapy services with the inpatient program that is located in the 1 North area, and may also relocate its respiratory therapy/EKG/pulmonary department to this area; and
 - (3) The Hospital may use the area that previously housed nuclear medicine for a new physician lounge, with sleep rooms and lockers;
2. The third performance requirement, the execution of a binding construction contract, for Phases 3 and 4, is extended until July 17, 2004.

Carroll Hospital Center must notify the Commission and seek Commission approval, as appropriate, before using the fifth floor of the south tower.

Commissioner Crofoot made a motion that the Commission approve the Staff recommendation. That motion was seconded by Commissioner Clifton Toulson, Jr., and unanimously approved.

ACTION: Carroll County Hospital Center Modification, Docket No. 01-06-2079, is hereby APPROVED in part and DENIED in part, as recommended by Commission Staff.

Chairman Wilson presided over the remainder of the meeting.

ITEM 7.

PRESENTATION: Annual Review of the Comprehensive Standard Health Benefit Plan and Proposed Benefit Changes, Mercer Consulting

Enrique Martinez-Vidal, Deputy Director of Performance and Benefits, and Bruce Kangisser of Mercer Human Resources Consulting, the Commission's actuarial consultant, presented information on a report which summarized the 2003 experience for the Comprehensive Standard Health Benefit Plan (CSHBP) and projected the experience to 2004 and 2005. The analysis also included the estimated costs of: (1) benefit changes that automatically impact the CSHBP through legislation enacted by the 2004 Maryland General Assembly; (2) mandated benefits that either passed or failed during the 2004 legislative session; and (3) requests submitted by other stakeholders. Mr. Martinez-Vidal added that it is unlikely that staff will recommend changes to the CSHBP this year. During discussion of the report, Commissioner Salamon requested that Mercer note in its report that, typically, both employers and employees share the costs of health insurance. Chairman Wilson thanked Mr. Martinez-Vidal for his report.

ITEM 8.

PRESENTATION: Spotlight on Prescription Drugs

Linda Bartnyska, Chief of Cost and Quality Analysis, presented a summary of the changing marketplace for prescription drugs, drug costs and volume, factors driving pharmacy benefit costs for employers, and the benefit changes that were a key factor in the slowed growth rate for retail store prescription drug spending in

2002. Chairman Wilson thanked Ms. Bartnyska for her report. The report is available on the Commission's website at: http://www.mhcc.state.md.us/new_items.htm.

ITEM 9.

PRESENTATION: *Maryland Hospital Obstetric Services: Trends and 2008 Utilization Forecast*

Patricia Cameron, Chief of Acute Care Services, presented updated information on trends in the population of females between ages 15 and 44, trends in births and birth projections, and trends in hospital utilization and reimbursement. Chairman Wilson thanked Ms. Cameron for the report.

ITEM 10.

PRESENTATION: *Annual Report on Licensed Acute Hospital Bed Capacity – Fiscal Year 2005*

Ms. Cameron also presented a summary of the *Annual Report on FY 2005 Licensed Acute Care Hospital Bed Capacity*, which reflects Maryland's acute general hospitals' new licensed acute care bed capacity, effective July 1, 2004. The annual process of designating each hospital's licensed capacity, based on 140% of the previous year's average daily census, is a coordinated effort by the Office of Health Care Quality, the Health Services Cost Review Commission, and the Maryland Health Care Commission, and also includes the participation of all acute care hospitals in the state. The licensed capacity shown in the report represents the sole official acute care hospital bed inventory. An inventory of emergency department treatment capacity, an inventory of critical care beds, and an inventory of self-reported total available physical acute care bed capacity are new sections in the report this year. This report is available on the Commission's website at: http://www.mhcc.state.md.us/new_items.htm. Chairman Wilson thanked Ms. Cameron for this report as well.

ITEM 11.

Hearing and Meeting Schedule

Chairman Wilson announced that the next meeting of the Commission would be Tuesday, September 14, 2004 at 4160 Patterson Avenue, Room 100, in Baltimore, Maryland at 1:00 p.m.

ITEM 12.

Adjournment

There being no further business, the meeting was adjourned at 2:50 p.m. upon motion of Commissioner Nicolay, which was seconded by Commissioner Toulson, and unanimously approved by the Commissioners.